



A Chapter of the American Planning Association

Corrective Amendments to the Michigan Zoning Enabling Act, PA 110

HB 5032 – Rep. Barb Byrum, Introduced 7/18/07 – in Committee on Intergovernmental, Urban and Regional Affairs.

This Bill seeks to rectify a number of issues that came to light after the enactment of PA 110 in July 2006. Post enactment corrective amendments are common in bills of this length and magnitude.

MAP, the MML and the MAP received many comments from our members immediately following the enactment of PA 110. It should be noted that the overwhelming bulk of comments/questions/concerns that came in the first 3 months after PA 110 of 2006 passed ultimately went back to provisions in local zoning ordinances that had been in violation of the zoning enabling acts for many years (largely since the amendments of 1978). In other words people were objecting to what they thought were statutory changes, but weren't—those changes were put in law decades ago. In the last 6-9 months the overwhelming number of calls/concerns/questions have dealt with the first set of proposed changes above to Section 103.

History and Background

In early 2005, House Republican Representative Elsenheimer began the process of unifying the state's three zoning acts:

City Village Zoning Act
Township Zoning Act
County Zoning Act

- MAP prepared a comparison table of the three acts so that comparisons could be made
- PA 110 was based on the Township Zoning Act
- Convened a diverse stakeholder group to go through the Act line by line
- Overarching premise: No substantive changes unless all stakeholders agreed
- Many iterations of the Act were considered at myriad meetings between January 2005 and the spring of 2006
- PA 110 effective July 2006

Benefits of Consolidation

- One zoning enabling act and one planning act instead of three—this is especially significant when it comes to future amendments;
- Fewer pages to read, search or duplicate and less time to process any future changes or even to prepare or digest training materials on changes;
- Uniform procedures for public hearing notices;
- Common powers and responsibilities (except in a few places like referenda);
- No longer having to remember many differences between the acts and making irrelevant whether or not there was a rational reason for the differences;
- Simplifying citations and more cross references;
- Elimination of archaic language (e.g. herein, wherefore and thereto);
- Ease of use and reference due to a simpler organization with separate articles for similar topics; and
- Creation of a structure that is easier to amend in the future.

Major Issues/Changes

- Sec. 103 public hearing notice issues: clarifying notice to occupants; notice regarding 11 or more properties proposed for rezoning
- Sec. 301 clarify relationship between zoning commissions, zoning boards (not zoning boards of appeals) and planning commissions. Planning commission performs role of a zoning commission/zoning board if there is no zoning commission/zoning board. All zoning commissions/zoning boards must be gone by July 2011 (will have no authority then) most if not all are already gone.
- Sec. 401(4) clarify procedure for requesting an opportunity to address the legislative body on a proposed rezoning
- Several clarifications related to charters throughout (parallel old statutory language)
- Sec. 601 protection of previous decisions by the ZBA; planning commissioner membership on ZBA is permissive not mandatory in cities and villages
- Sec. 603 clarify limitations on ZBA votes when a planning commissioner previously voted on the matter on the planning commission
- Sec. 604(5) clarify public hearing notice requirements when an interpretation question is before the ZBA
- Sec. 606(3) would return to old CVZA on appeal period from ZBA decision (21 days) for just cities and villages, instead of 30 day period for all community types
- Sec. 702(2) clarify protection exists for zoning ordinances adopted under prior act.

Also, there are MANY small text amendments throughout the act. These are the result of a different Legislative Service Bureau (LSB) attorney working on this bill than the one who drafted PA 110 of 2006. He believes these changes are necessary to conform with LSB drafting rules.